

**REMARKS**

Claims 1-45 were previously cancelled. Claims 46-74 are currently pending in the application. Claims 46, 54, 61, 66, 68 and 72 have been amended. Reexamination and reconsideration of the application, as amended, are respectfully requested.

Applicants wish to thank the Examiner, Mr. Nguyen, for the courtesy of a personal interview conducted with the undersigned attorney on October 17, 2007. The claims have been amended in accordance with the discussion had at the interview.

Dependant claims 68 and 72 have been amended in a manner which applicants believe places the amended claims in compliance with 35 U.S.C. 112, second paragraph. Specifically, claim 68 has been amended to recite "input device" in line 2, the antecedent basis for which is provided in claim 54. Claim 72 has been amended to recite "input device" in line 1, the antecedent basis for which is provided in claim 54.

Claims 48, 49, 54-60, 61-65, 68, 69, 72 and 73 have been amended in a manner which Applicants believe overcomes the rejection under 35 U.S.C. 112, first paragraph. Claims 48, 49, 54-60, 61-65, 68, 69, 72 and 73 have been amended to delete recitation of a "rotational input device" and to recite an "input device". Support for the recited input device may be found, for example, in claim 1 of the original application, which recites: "An input device, comprising: a movable touch pad . . .". No new matter has been added.

Claims 46-49, 52-57, 60-62 and 65-74 were rejected under 35 U.S.C. 102(b) as being anticipated by Molne (USP 6,243,080). The examiner stated:

As to claims 46-49, 52, 54-57, 61, 62, and 66, Molne discloses a portable media player (a wireless communication device 10, see Fig. 1, col. 7, lines 30-34) comprising a housing (see Fig. 1) including a frame (a casing 17, see Fig. 1 or 2); and a touchpad/rotational input device (a touch sensitive panel 30, see Figs. 2-5) disposed within the housing (see Figs. 1-4).

Further, Molne teaches that a user's contact finger is free to move any direction on the touch-sensitive panel (30) to cause the cursor to move in such direction (see col. 3, lines 18-36). Based on this disclosure, Molne teaches a touchpad (30) configured to receive rotational inputs when the user moves a contact finger in a rotational direction.

Molne further teaches that the touch sensitive panel (30) is rotated or hingedly rotated to enable the user to make a select function (see col. 2, lines 13-21 and col. 5, lines

15-24). Based on this disclosure, Molne teaches the touchpad capable of a gimbal action relative to the housing, wherein the gimbal action of the touchpad is configured to enable a user of the portable media player to make media a selection.

Claims 50, 51, 58, 59, 63, and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molne as applied to claims 46, 54, and 61, and further in view of Trent (US 2004/0252109 A1).

These rejections are respectfully traversed with respect to claims 46-74, as amended. Claims 46-74 have been amended in a manner which Applicants believe overcomes the rejections under 35 U.S.C. 103(a) based upon Molne, applied alone or in combination with Trent (US 2004/0252109 A1).

Representative claim 46, for example, has been amended to recite a portable media device comprising a number of elements in combination. The claimed combination includes a housing and an input device. The claimed input device comprises a touchpad associated with the housing. The claimed touchpad is configured to receive rotational inputs and is capable of a gimbal action relative to the housing. The claimed gimbal action of the touchpad is configured to enable the touchpad to float relative to the housing while being constrained thereto, thereby enabling the touchpad to move in multiple degrees of freedom relative to the housing, wherein the gimbal action of the touchpad enables a user of the portable media device to make a selection.

Support for claim 46, as amended, is found for example in original paragraph [0061], which states: "By gimbal, it is generally meant that the touch pad 72 is able to float in space relative to the frame 76 while still being constrained thereto. The gimbal may allow the touch pad 72 to move in multiple degrees of freedom (DOF) relative to the housing. For example, movements in the x, y and/or z directions and/or rotations about the x, y, and/or z axes ( $\theta_x \theta_y \theta_z$ )." No new matter has been added.

As amended, claims 46-74 are each generally directed to a portable media device comprising a number of elements in combination. For example, representative claim 46 is directed to a portable media device comprising a housing and a touchpad. The touchpad is configured to receive rotational inputs and is capable of a gimbal action relative to the housing. The gimbal action of the touchpad is configured to enable a user of the portable media device to make a selection.

A similar combination of elements is neither disclosed nor suggested by Molne.

Molne's touch sensitive panel 30 does not gimbal. Molne's panel 30 exhibits only one degree of freedom. In one embodiment Molne's touch-sensitive panel only moves vertically, between an "up" or "normal" position (shown in Figure 2) and a "down" or "select" position (shown Figure 3)(See Molne at column 2, lines 14-36 and claims 1, 2, 6, 7, 13 and 14). In a second embodiment Molne's touch-sensitive panel is attached to the frame by a hinge along one side of the panel. The opposite side of the panel is urged upward by a spring. In this second embodiment the touch-sensitive panel rotates about the hinge between a first position and a second position (See Molne at column 5, lines 14-24 and claim 7).

There is no teaching or suggestion in Molne of a touch sensitive panel that gimbals or has multiple degrees of freedom. There is no teaching or suggestion in Molne of a touch sensitive panel that both rotates and moves vertically, combining both the vertical and hinged embodiments disclosed in Molne. Molne consistently refers to the vertical and hinged embodiments as separate and distinct alternative embodiments, never as a combination. See, for example, column 2, lines 14-15, where Molne states that the touch panel can be moved by rotation "or" by vertical displacement, not by rotation "and" vertical displacement.

There is no teaching or suggestion in Molne of a combination including a touch sensitive panel that gimbals or has multiple degrees of freedom, as defined by the amended claims. It is therefore respectfully submitted that claims 46-74, as amended, are patentably distinguishable over the cited and applied references.

Claims 46-74 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 6, 7, 11, and 16 of USP 7,046,230 in view of Molne.

The rejection on the ground of nonstatutory obviousness-type double patenting is respectfully traversed for the reasons given above with respect to the rejection under 35 USC 103. Molne is the sole reference relied upon for an alleged teaching of gimbaling. However, for the reasons discussed above, Molne fails to disclose or suggest gimbaling. Consequently, the rejection based on obviousness type double patenting should be withdrawn.


In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is

determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 106842000600.

Dated: October 23, 2007

Respectfully submitted,

By   
Alex Chartove

Registration No.: 31,942  
MORRISON & FOERSTER LLP  
1650 Tysons Blvd, Suite 400  
McLean, Virginia 22102  
(703) 760-7744